

**Board of Forestry and Fire Protection
Title 14 of the California Code of Regulations**

[Notice Published December 24, 2012]

15 - DAY NOTICE

**MODIFICATIONS TO TEXT OF PROPOSED REGULATION AND
PUBLIC HEARING DATE**

“DEFENSIBLE SPACE, 2012”

PUBLIC HEARING DATE

Pursuant to the requirements of Government Code § 11346.8(c), and Title 1 of the California Code of Regulations § 44, the State Board of Forestry and Fire Protection (Board) is providing notice of changes made to proposed regulations listed below which were the subject of a regulatory hearing conducted on March 7, 2012. These changes are being proposed in response to concerns raised by the Office of Administrative Law. **The Board will hold a public hearing to consider adoption of revised final rule language at their regularly scheduled meeting on Wednesday, January 9, 2013. The meeting will begin at 8:00am in the First Floor Auditorium of the Natural Resources Building located at 1416 Ninth Street, Sacramento, California.**

MODIFICATIONS TO TEXT OF PROPOSED REGULATION

The Board is providing notice of changes made to the proposed regulations publicly noticed for a 45-day review on January 20, 2012 affecting Title 14 of the California Code of Regulations (14 CCR), Division 1.5, Chapter 7 Fire Protection, Subchapter 3, Article 3. The proposed rule text changes are indicated in double underline and double strikethrough. The following sections are proposed for amendment:

§ 1299.01. Purpose.

The legal authorities cited for this rule section have been revised to replace Public Resources Code Sections 4102, 4125, 4126, 4127, and 4128 with Public Resources Code Section 4290.

§ 1299.02. Definitions.

The definition of “Building or Structure” in Section 1299.02(b) has been revised to remove an unnecessary comma.

The legal authority cited for this rule section has been revised to include Public Resources Code Section 4290.

§ 1299.03. Requirements.

The rule text in the first paragraph has been revised to clarify that the Department of Forestry and Fire Protection's "Property Inspection Guide, 2000 version, April 2000" is not intended to serve as a substitute for the regulations. Rather, it is intended as useful guidance to help a property owner understand the vegetation treatment parameters in the two required treatment zones.

Section 1299.03(c)(1) has been revised to remove the redundant phrasing, "on the ground," and "in all other directions." It also now includes the modifier "an additional" to clarify the requirement for a ten foot vegetation treatment zone outside of the ten foot bare mineral soil treatment zone.

Section 1299.03(c)(2) has been revised to clarify the requirements for vegetation treatment in proximity to watercourses. Also, for clarity and consistency with Section 1299.03(c)(1), the word, "mineral" has been added to modify the words "bare" and "soil."

Lastly, the legal authority cited for this rule section has been revised to include Public Resources Code Section 4290.

§ 1299.04. Additional Clearance.

Sections 1299.04(a) and 1299.04(b) have been revised for improved clarity to strike the unnecessary parenthetical reference to "CAL FIRE Unit Chief or their authorized designee" as possible designated fire experts.

Section 1299.04(c) has been revised to more clearly convey the purpose of the two guidance documents referenced within the regulation.

Once again, the legal authority cited for this rule section has been revised to include Public Resources Code Section 4290.

§ 1299.05. Alternative Methods.

Consistent with the revisions to Section 1299.04(a) and (b), this section has been revised to strike the unnecessary parenthetical reference to "CAL FIRE Unit Chief or their authorized designee."

This section was also revised to convey that alternative practices must provide for the same practical effect as "these regulations" rather than the "guidance documents." The guidance documents are intended as supplemental sources of information rather than as substitutes for the rule text.

Again, the legal authority cited for this rule section has been revised to include Public Resources Code Section 4290.

MODIFICATION TO THE INITIAL STATEMENT OF REASONS

The Initial Statement of Reasons has been modified to include one additional relevant document the Board relied upon in the development of the regulation. A copy of the following document is available upon request.

1. A Property Owner's Guide to Reducing the Wildfire Threat. Farnham, Delbert S., University of California Cooperative Extension, Amador County.

PUBLIC COMMENTS

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the 15-Day Notice. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. **The written comment period ends at 5:00 P.M., on Tuesday, January 8, 2013.** The Board will consider only written comments received at the Regulations Coordinator Office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments may be submitted by U.S. mail to the following address:

Board of Forestry and Fire Protection
Attn: Eric K. Huff, RPF No. 2544
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered or sent by courier to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The statutory authorities for this proposed regulation are found in Public Resources Code (PRC) Sections 4290 and 4291. The most recent amendments to PRC Section 4291 require vegetation clearance up to 100 feet from the structure, or the property line, whichever is less. This statutory clearance requirement is intended to reduce the vulnerability of homes to wildfires and prevent the spread of fire from the homes to the wildlands. The statute provides very general requirements for clearing vegetation for hazard reduction. This proposed regulation provides more specific direction on implementation of the vegetation clearance requirements.

At its regularly scheduled meeting on March 7, 2012, the California State Board of Forestry and Fire Protection (Board) adopted amendments to existing rule sections and new rule sections for the Section 1299 defensible space regulations that implement Public Resources Code Section 4291. These regulations were adopted as publicly noticed for 45 days without additional modification beyond editorial corrections. This adoption was intended to promote the protection of life, property, and the environment through improved clarity and guidance on minimum vegetation clearance standards around structures. The regulations apply only to structures located within areas designated as "State Responsibility Area" for fire protection.

Following the Board's adoption, the Office of Administrative Law (OAL) conducted its review of the regulations and determined that there were a number of the newly adopted provisions that required additional clarification. The Board subsequently withdrew the adopted regulation from further OAL review in order to make revisions to the rule text and Initial Statement of Reasons. Provided the Board acts on the proposed rule revisions discussed in this Notice following its public hearing on January 9, 2013, it will once again seek OAL review and approval of the regulations.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Eric K. Huff, RPF No. 2544
Regulations Coordinator
California Department of Forestry and Fire Protection
P.O. Box 944246

Sacramento, CA 94244-2460
(916) 653-9633

The designated backup person in the event Mr. Huff is not available is Mr. George Gentry, Executive Officer of the Board of Forestry and Fire Protection. Mr. Gentry may be contacted at the above address or by phone at (916) 653-8007.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the original proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at the following address:

California Department of Forestry and Fire Protection
Resources Building
Room 1517
1416 9th St.
Sacramento, CA 95814
Attention: Eric K. Huff
Tel: (916) 653-9633

All of the above referenced information is also available on the Board website at:

http://www.bof.fire.ca.gov/regulations/proposed_rule_packages/

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised.

Proposed revisions to the rule text in the 45-Day notice of rulemaking dated January 20, 2012 are identified in the 15-Day Notice of Rulemaking rule text as follows:

Existing CCR Text ----- No underline or strikethrough

Deletion of text made in the 45-Day Notice ---- ~~single strikethrough~~

Additions of text made in the 45-Day Notice ----- single underline

Deletions of text made in the 15-Day Notice ---- ~~double strikethrough~~

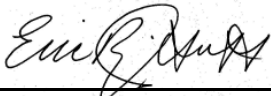
Additions of text made in the 15-Day Notice ----- double underscore

Notice of the comment period and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board.

A copy of the express terms of the modifications of the originally proposed action using DOUBLE UNDERLINE to indicate an addition to the California Code of Regulations and ~~DOUBLE STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for no less than 15 days from the date on which they are made publicly available.



Eric K. Huff, RPF No. 2544
Regulations Coordinator
California Department of Forestry and Fire Protection

DEFENSIBLE SPACE, 2012

14 CCR, Division 1.5, Chapter 7 Fire Protection, Subchapter 3.,

Article 3. Fire Hazard Reduction Around Buildings and Structures

Amend § 1299. Defensible Space.

~~The intent of this regulation is to provide guidance for implementation of [Public Resources Code 4291\(a\)](#) and [\(b\)](#), and minimize the spread of fire within a 100 foot zone around a building or structure.~~

~~(a) A person that owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining any mountainous area, forest covered lands, brush covered lands, grass covered lands, or any land that is covered with flammable material, and is within State Responsibility Area, shall do the following:~~

~~(1) Within 30 feet from each building or structure maintain a firebreak by removing and clearing away all flammable vegetation and other combustible growth pursuant to PRC [§ 4291\(a\)](#). Single specimens of trees or other vegetation may be retained provided they are well spaced, well pruned, and create a condition that avoids spread of fire to other vegetation or to a building or structure.~~

~~(2) Within the 30 feet to 100 feet zone (Reduced Fuel Zone) from each building or structure (or to the property line, whichever is nearer to~~

1 ~~the structure), provide a fuelbreak by disrupting the vertical and/or~~
2 ~~horizontal continuity of flammable and combustible vegetation with the~~
3 ~~goal of reducing fire intensity, inhibiting fire in the crowns of~~
4 ~~trees, reducing the rate of fire spread, and providing a safer~~
5 ~~environment for firefighters to suppress wildfire pursuant to PRC [§](#)~~
6 ~~[4291\(b\)](#).~~

7
8 ~~(b) Any vegetation fuels identified as a fire hazard by the fire~~
9 ~~inspection official of the authority having jurisdiction shall be~~
10 ~~removed or modified provided it is required by subsection (a)(1) &~~
11 ~~(a)(2).~~

12
13 ~~(c) Within the intent of the regulations, the fire inspection official~~
14 ~~of the authority having jurisdiction may approve alternative practices~~
15 ~~which provide for the same practical effects as the stated guidelines.~~

16
17 ~~(d) Guidance for implementation of this regulation is contained in the~~
18 ~~publication: "General Guidelines for Creating Defensible Space" as~~
19 ~~published by the Board of Forestry and Fire Protection by resolution~~
20 ~~adopted on February 8, 2006.~~

21
22 ~~Note: Authority cited: [Sections 4102, 4125 4128](#) and [4291, Public](#)~~
23 ~~[Resources Code](#). Reference: [Section 4291, Public Resources Code](#).~~

1 **Adopt § 1299.01. Purpose.**

2 The intent of this regulation is to provide guidance for
3 implementation of Public Resources Code Section 4291 to improve safety
4 for fire fighters defending a home as well as increase the
5 survivability of a "Building or Structure" as defined, that exists in
6 grass, brush, and forest covered lands within the designated State
7 Responsibility Area (SRA) of California.

8
9 Note: Authority cited: Public Resources Code Sections ~~4102, 4125,~~
10 ~~4126, 4127, 4128,~~ 4290 and 4291. Reference: Public Resource Code
11 Section 4291.

12
13 **Adopt § 1299.02. Definitions.**

14 The following definitions apply to this article:

15
16 **(a) Defensible space.** The buffer that landowners are required to
17 create on their property between a "Building or Structure" and the
18 plants, brush and trees or other items surrounding the "Building or
19 Structure" that could ignite in the event of a fire.

20
21 **(b) Building or Structure.** Anything constructed that is designed or
22 intended for support, enclosure, shelter, or protection of persons,
23 animals, or property, having a permanent roof that is supported by
24 walls or posts that connect to or rest on the ground.

1 (c) Outbuilding. Buildings or structures that are less than one
2 hundred-twenty (120) square feet in size and not used for human
3 habitation. For purposes of this Section, an "Outbuilding" is not a
4 "Building or Structure" as defined in subsection (b) above.

5
6 Note: Authority cited: Public Resources Code Sections 4290 and 4291.
7 Reference: Public Resource Code Section 4291, Health and Safety Code
8 Sections 18908 and 18917.

9
10 **Adopt § 1299.03. Requirements.**

11 Defensible space is required to be maintained at all times, whenever
12 flammable vegetative conditions exist. One hundred feet (100 ft.) of
13 defensible space clearance shall be maintained in two distinct "Zones"
14 as follows: "Zone 1" extends thirty feet (30 ft.) out from each
15 "Building or Structure," or to the property line, whichever comes
16 first; "Zone 2" extends from thirty feet (30 ft.) to one hundred feet
17 (100 ft.) from each "Building or Structure," but not beyond the
18 property line. The vegetation treatment requirements for Zone 1 are
19 more restrictive than for Zone 2, as provided in (a) and (b) below. A
20 ~~detailed explanation of the requirements for both Zone 1 and Zone 2~~
21 ~~can be viewed in the~~ The Department of Forestry and Fire Protection's
22 "Property Inspection Guide, 2000 version, April 2000," incorporated
23 ~~herein by reference~~ provides additional guidance on vegetation
24 treatment within Zone 1 and Zone 2, but is not intended as a
25 substitute for these regulations. This publication may be found on the

Department of Forestry and Fire Protection (CAL FIRE) website at:
http://cdfdata.fire.ca.gov/fire_er/fpp_engineering_view?guide_id=8

(a) Zone 1 Requirements:

(1) Remove all dead or dying grass, plants, shrubs, trees, branches, leaves, weeds, and pine needles from the Zone whether such vegetation occurs in yard areas around the "Building or Structure," on the roof or rain gutters of the "Building or Structure," or any other location within the Zone.

(2) Remove dead tree or shrub branches that overhang roofs, below or adjacent to windows, or which are adjacent to wall surfaces, and keep all branches a minimum of ten feet (10 ft.) away from chimney and stovepipe outlets.

(3) Relocate exposed firewood piles outside of Zone 1 unless they are completely covered in a fire resistant material.

(4) Remove flammable vegetation and items that could catch fire which are adjacent to or under combustible decks, balconies and stairs.

(b) Zone 2 Requirements:

1 (1) In this zone create horizontal and vertical spacing among
2 shrubs and trees using the "Fuel Separation" method, the
3 "Continuous Tree Canopy" method or a combination of both to
4 achieve defensible space clearance requirements. Further guidance
5 regarding these methods is contained in the State Board of
6 Forestry and Fire Protection's, "General Guidelines for Creating
7 Defensible Space, February 8, 2006," incorporated herein by
8 reference, and the "Property Inspection Guide" referenced
9 elsewhere in this regulation. The "General Guidelines for
10 Creating Defensible Space" may be found on the Board's website
11 at:

12 [http://www.fire.ca.gov/CDFBOFDB/pdfs/Copyof4291finalguidelines9_2](http://www.fire.ca.gov/CDFBOFDB/pdfs/Copyof4291finalguidelines9_29_06.pdf)
13 [9_06.pdf.](http://www.fire.ca.gov/CDFBOFDB/pdfs/Copyof4291finalguidelines9_29_06.pdf)

14
15 (2) In both methods the following standards apply:

16
17 (A) All dead and dying surface and aerial fuels must be
18 removed with the exception of surface litter which, unless stated
19 otherwise, may be retained to a maximum depth of four inches (4
20 in.).

21
22 (B) Cut annual grasses and forbs down to a maximum height
23 of four inches (4 in.).

1 (C) All exposed wood piles must have a minimum of ten feet
2 (10 ft.) of clearance, down to bare mineral soil, in all
3 directions.

4
5 (c) For both Zones 1 and 2:

6
7 (1) "Outbuildings" and Liquid Propane Gas (LPG) storage tanks
8 shall have the following minimum clearance: ten feet (10 ft.) of
9 clearance to bare mineral soil ~~on the ground~~ and no flammable
10 vegetation for an additional ten feet (10 ft.) ~~in all other~~
11 ~~directions~~ around their exterior.

12
13 (2) Protect water quality. Do not clear vegetation ~~near riparian~~
14 ~~areas~~ to bare mineral soil and avoid the use of heavy equipment
15 in and around streams and seasonal drainages. Vegetation removal
16 can cause soil erosion, especially on steep slopes. Keep soil
17 disturbance to a minimum on steep slopes.

18
19 Note: Authority cited: Public Resources Code Sections 4290 and 4291.

20 Reference: Public Resource Code Section 4291, Health and Safety Code
21 Sections 18908 and 18917.

22
23 **Adopt § 1299.04. Additional clearance**

24 (a) An insurance company that insures an occupied "Building or
25 Structure" may require additional clearance beyond that required under

§ 1299 only if a fire expert designated by the Director ~~(CAL FIRE Unit Chief or their authorized designee)~~, provides findings that the clearing is necessary.

(b) Within the intent of the regulations, a fire expert designated by the Director ~~(CAL FIRE Unit Chief or their authorized designee)~~, may require more than one hundred feet (100 ft.) of defensible space. A fire expert cannot require additional defensible space clearance beyond the property line.

(c) Further guidance to property owners ~~for~~ on implementation of this regulation is contained in the "General Guidelines for Creating Defensible Space" and the "Property Inspection Guide," both of which are referenced elsewhere in this regulation.

Note: Authority cited: Public Resources Code Sections 4290 and 4291.

Reference: Public Resource Code Section 4291.

Adopt § 1299.05. Alternative Methods

The provisions of these regulations are not intended to exclude alternative methods not specifically prescribed by these regulations.

A fire expert designated by the Director ~~(CAL FIRE Unit Chief or their authorized designee)~~ may approve alternative practices which provide for the same practical effects as those stated in ~~the these~~ regulations ~~guidance documents listed~~.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Note: Authority cited: Public Resources Code Sections 4290 and 4291.

Reference: Public Resource Code Section 4291 and 4291.3.